

STATE OF INDIANA)
)
COUNTY OF DEKALB)

SS:

IN THE DEKALB SUPERIOR COURT

17D01-2103-CT-000011

CAUSE NO. _____

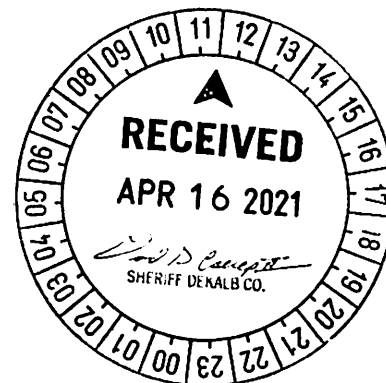
JASON SHEPPARD and)
DONALD JOHNSON, JR.,)

Plaintiffs,)

v.)

DEKALB COUNTY SHERIFF,)

Defendant.)



COMPLAINT

Plaintiffs, by counsel, allege against Defendant that:

1. The Plaintiffs are Jason Sheppard and Donald Johnson, Jr. who are former detainees at the DeKalb County Jail in Auburn Indiana.
2. The DeKalb County Sheriff is named as a Defendant in his official capacity pursuant to 42 U.S.C. § 1983. At all material times to this Complaint, the Sheriff was responsible for unconstitutional and/or constitutionally-deficient policies, practices, procedures, and customs in effect at the DeKalb County Jail which subjected Plaintiffs to unconstitutional conditions of confinement in violation of Plaintiffs' federal protected rights under the Eighth and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983.
3. Plaintiffs issued a Tort Claim Notice on December 19, 2019, a copy of which is attached hereto, incorporated herein, and made a part hereof as Exhibit "A". All available administrative remedies have been exhausted, and all jurisdictional

prerequisites have been met for the filing of this lawsuit.

4. Plaintiff Jason Sheppard was arrested and detained in the DeKalb County Jail on or about May 3, 2019. At the time he was booked in, he was believed to be suicidal and was placed in a “suicide watch” area that lacked toilet facilities. Mr. Sheppard repeatedly informed officers that he needed to use the toilet facilities (to attend to normal bodily functions), but was not permitted to do so. Mr. Sheppard was eventually forced to utilize a drain or hole in the floor of the room, subjecting him to unreasonably unsanitary housing conditions, and depriving him of sanitation and housing conditions that fell below the bare minimum of what he was entitled to as a member of a civilized society.
5. Plaintiff Donald Johnson, Jr. was also incarcerated in DeKalb County Jail in May of 2019. On or about May 16, 2019, he was sent to a “rubber room” within the jail and forced to remain in the same or similar cell as Mr. Sheppard was housed in when he first entered the jail. Like Mr. Sheppard, Mr. Johnson was not given access to toilet facilities and was forced to attend to his bodily functions by using a drain or hole in the floor of the cell. In addition to this unsanitary arrangement, Mr. Johnson was also forced to walk in urine, blood and feces that jail personnel had failed to clean out of the cell. Mr. Johnson was held in this cell, without access to toilet facilities, for six (6) days.
6. The Plaintiffs, and each of them, contend that they were held in filthy and unsanitary cells, and denied access to appropriate toilet facilities, for a prolonged period of time as a result of the unconstitutional/constitutionally-deficient policies, practices,

procedures, and customs of the DeKalb County Sheriff pertaining to the housing of prisoners and inmates in the jail, including, but not limited to, the housing of those individuals suspected of being at risk for suicide, mental illness, or otherwise in need of separation from the general population for some other reason.

7. The Defendant's unconstitutional/constitutionally-deficient policies, practices, procedures, and customs that governed and directed the particular housing into which Plaintiffs were placed were kept while in the DeKalb County Jail, were the direct and proximate cause of Plaintiffs suffering cruel and unusual punishment, and additionally suffered inconvenience, humiliation, exposure to disease and illness, emotional distress, mental anguish, and other damages and injuries.

WHEREFORE, Plaintiffs pray for judgment against the Defendant, for compensatory damages, reasonable attorney's fees and costs, and all other just and proper relief in the premises.

JURY DEMAND

Pursuant to Rule 38 of the Indiana Rules of Trial Procedure, Plaintiff demands a trial by jury in this action.

Respectfully submitted,

CHRISTOPHER C. MYERS & ASSOCIATES

/s/Christopher C. Myers

Christopher C. Myers, #10043-02

809 South Calhoun Street, Suite 400

Fort Wayne, IN 46802

Telephone: (260) 424-0600

Facsimile: (260) 424-0712

E-mail: cmyers@myers-law.com

Counsel for Plaintiffs

CHRISTOPHER C. MYERS & ASSOCIATES

LAW OFFICES

809 S. Calhoun Street, Suite 400 • Fort Wayne, IN 46802

(260) 424-0600 • (260) 424-0712 (FAX)

17D01-2103-CT-000011

CHRISTOPHER C. MYERS
CATHY T. SERRANOcmyers@myers-law.com
cserrano@myers-law.com

December 19, 2019

Board of Commissioners of Dekalb County
100 South Main Street, Courthouse
Auburn, IN 46706Sheriff of DeKalb County Indiana
Sheriff David G. Cserep, II
215 East 8th Street
Auburn, IN 46706

COPY

Re: Jason L. Sheppard v Dekalb County Sheriff & "John Doe" officers**NOTICE OF TORT CLAIM**

To Whom This May Concern:

Please be advised that my firm represents Jason L. Sheppard and Donald N. Johnson in the above dispute. This letter will serve as their Notice of Tort Claim to you.

Circumstances Which Brought About the Loss:

Jason L. Sheppard was arrested and detained in the DeKalb County Jail on or about May, 2019 at which time he was believed to be suicidal and placed in a suicide watch area which contained no toilet facilities. Mr. Sheppard repeatedly expressed to officers of the DeKalb County Sheriff that he needed to use the toilet facilities, but was never allowed to do so. He eventually had to utilize a drain or hole in the floor of the room, which is not sanitary. Being deprived of toilet facilities presents a claim for unconstitutional conditions of confinement.

Donald Johnson was detained in Dekalb County Jail as well, and was treated similarly in that he was forced to walk in urine in the midst of blood and feces.

Extent of the Loss:

The Eighth Amendment (and the Fourteenth Amendment) requires prison officials or correction officers to provide humane conditions of confinement. That obligation includes a responsibility to provide adequate food, clothing, shelter, sanitation, medical care, and other such basic needs in the prison or jail setting.

LAW OFFICES

CHRISTOPHER C. MYERS & ASSOCIATES

Re: Jason Sheppard & Donald Johnson v Dekalb County Sheriff & "John Doe" officers
Page 2- December 18, 2019

The denial of the use of sanitary toilet facilities to an inmate is inhumane and violative of the constitutional requirements cited above.

Time and Place the Loss Occurred:

Jason L. Sheppard was incarcerated from on or about May, 2019 until he was sentenced and subsequently confined to the Plainfield Correctional facility.

Donald N. Johnson was sent to the "rubber room" at Dekalb Jail on May 16, 2019, where he was forced to walk in urine in the midst of blood and feces. He was subsequently confined at the New Castle Correctional facility.

Names of All Persons Involved (If Known):

Dekalb County Sheriff (in his official capacity)
Unknown Dekalb County Officers ("John Does")

The Amount of the Damages Sought:

The Claimants understand that there is a cap for relief under Indiana Tort Claims Act. Claimants are each seeking \$25,000.00 in compensatory damages, and an additional amount in punitive damages, as well as reasonable costs and attorneys' fees under the Fourth Amendment and 42 U.S.C. § 1983.

Residence of Claimant at the Time of the Loss and at the Time of the Filing of This Notice:

Claimant's address at the time of the incident was at the Dekalb County Jail located in Auburn, Indiana. At the present time the Complainant Sheppard is incarcerated at the Plainfield Correctional Facility, DOC#123832, 727 Moon Road, Plainfield, Indiana 46168. Complainant Johnson is incarcerated at the New Castle Correctional Facility, DOC#277535, at 1000 Van Nuys Road, New Castle, Indiana 47362.

Respectfully Submitted,

CHRISTOPHER C. MYERS & ASSOCIATES



Christopher C. Myers

cc:

Jason L. Sheppard, Donald N. Johnson